Exemption No. 9902

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

CAVANAUGH AIR MUSEUM D.B.A. CAVANAUGH FLIGHT MUSEUM

for an exemption from §§ 91.315, 91.319, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations

Regulatory Docket No. FAA-2008-1128

PARTIAL GRANT OF EXEMPTION

By letter dated October, 17, 2008, Mr. Doug Jeanes, Executive Director, Cavanaugh Air Museum d.b.a. Cavanaugh Flight Museum (CFM), of 4572 Claire Chennault, Addison, Texas 75001, petitioned the Federal Aviation Administration (FAA) on behalf of CFM for an exemption from §§ 91.315, 91.319(a)(2), 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would allow CFM to conduct historical flight exercises (HFE) in the aircraft listed in condition number 1.

The petitioner requires relief from the following regulations:

Section 91.315: Limited category civil aircraft: Operating limitations prescribes that no person may operate a limited category civil aircraft carrying persons or property for compensation or hire.

Section 91.319(a)(2): Aircraft having experimental certificates: Operating limitations states that:

(a) No person may operate an aircraft that has an experimental certificate—

(1) For other than the purpose for which the certificate was issued; or

(2) Carrying persons or property for compensation or hire.

Section 119.5(g): Certifications, authorizations, and prohibitions prescribes, in pertinent part, that no person may operate as a direct air carrier or as a commercial operator without, or in violation of, an appropriate certificate and appropriate operations specifications. No person may operate as a direct air carrier or as a commercial operator in violation of any deviation or exemption authority, if issued to that person or that person's representative.

Section 119.21(a): Commercial operators engaged in intrastate common carriage and direct air carriers states that:

(a) Each person who conducts airplane operations as a commercial operator engaged in intrastate common carriage of persons or property for compensation or hire in air commerce, or as a direct air carrier, shall comply with the certification and operations specifications requirements in subpart C of this part, and shall conduct its….

The petitioner supports its request with the following information:

The CFM is a qualified non-profit 501(c)(3) educational organization devoted to promoting aviation studies and to perpetuating America's aviation heritage. The museum fulfills its mission by restoring, operating, maintaining, and displaying historically significant, vintage military aircraft and by collecting materials related to the history of aviation.

The petitioner states that an exemption is in the best interest of the public because the CFM provides an opportunity for members of the general public to receive a unique educational experience specific to historic military aircraft.

The petitioner states that operation of CFM historic military aircraft will have no negative effect whatsoever upon the air carriers which operate aircraft certified in the standard airworthiness category. CFM members who will be aboard these historic aircraft will not be there for the purposes of air transportation. All operations will depart from, and return to, the same airport. CFM states it will not present any type of competition to the air carriers, since CFM is not holding itself out for the carriage or transportation of persons or property.

The CFM assures that the professional members of the CFM's maintenance department are all FAA certified airframe and powerplant mechanics. Also, CFM states that all pilots who will be involved in flight operations under the proposed exemption will possess, at a minimum, a commercial airman certificate and second class medical certificate.

The FAA's analysis is as follows:

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested exemption would not set a precedent. The FAA has issued a grant of exemption in circumstances similar in all material respects to those presented in your petition.

On October 9, 2007, the FAA published the "Exemptions for Passenger Carrying Operations Conducted for Compensation and Hire in Other Than Standard Category Aircraft" (72 FR 57196) policy. In this policy, the FAA found that preserving historic U.S. aircraft is in the public interest, in the same manner that preserving historic buildings, landmarks, and neighborhoods has been determined to be in the public interest. While the aviation history can be represented with static displays in museums in the same manner that historic landmarks can be represented in museums, the public has shown a willingness to support the preservation and operation of historic aircraft and a desire to experience flights in them.

The policy states that the FAA will consider issuing an exemption provided there is an overriding public interest in providing a financial means for a non-profit organization to continue to preserve and operate these historic aircraft and that adequate measures will be taken to ensure safety. The FAA will use the following criteria in deciding whether granting an exemption is in the public interest and does not compromise safety:

1. Aircraft holding any category of airworthiness certificate issued under 14 CFR part 21 may be considered for an exemption to provide living history flight experiences.

2. Exemptions will not be limited to a particular category of aircraft or based on a type of engine; fixed wing or rotorcraft may apply as well as piston or turbine-powered aircraft.

3. An aircraft that was not made by a U.S. manufacturer may be considered for an exemption if the operational and maintenance history is adequately documented.

4. Aircraft with crew egress systems will be considered, provided that flightcrew, ground personnel, and passengers have completed a training program approved by the FAA.

5. Passenger training programs must be at least as thorough as what is provided by the manufacturer or military service user when preparing an individual for a "familiarization" flight.

6. Aircraft of the same or similar make/model/series cannot be in current production or in significant commercial use for the carriage of passengers. Exceptions may be considered where a particular airframe has documented historical significance.

7. All passenger seats and their installation must:

    a. Take into consideration passenger egress in the event of an emergency and be FAA-approved if installed on type certificated aircraft; or

    b. Meet the military seat and installation standards or equivalent standards in existence at the time the aircraft was manufactured as outlined in 14 CFR § 21.27 if installed on experimental aircraft. The Flight Standards District Office (FSDO) having oversight for that aircraft will then ensure the approved maintenance program is modified to incorporate the specific seat inspection procedures.

8. Exemptions will be issued for the sole purpose of providing living history flights to promote aviation and preserve historic aircraft. The operations authorized under these exemptions are specifically not air tour, sightseeing, or air carrier operations. The FAA may stipulate conditions and limitations to the operation to preserve commonality and standardization.

9. The FAA, in determining the public interest derived in any grant of exemption of this nature, will take into consideration the number of existing operational aircraft and petitioners available to provide the historic service to the public.

10. The FAA must be provided with proof that the petitioner is a tax-exempt museum or foundation, recognized as such by the U.S. Department of Treasury, which uses the funds received from exhibitions to enable the continued display of the featured aircraft. The aircraft must be under the operational control of the petitioner.

11. Applicants may be required to submit an operational history of the make/model/type aircraft, or justification with respect to aviation history, in order for the FAA to determine the public interest basis for granting an exemption.

12. If a petition for exemption is granted, the conditions and limitations may include revised operating limitations as part of the aircraft's airworthiness certificate. These operating limitations may be more restrictive than those originally issued to the aircraft.

13. Passengers must obtain a complete briefing prior to departure that adequately describes the differences between aircraft with a standard airworthiness certificate and aircraft holding either an experimental or limited airworthiness certificate (i.e., the FAA has not participated in or accepted the design standards, performance standards, handling qualities, or provided approval or operational acceptance of experimental aircraft, the adequacy of previous maintenance and inspection programs and accomplishment may be in doubt, the aircraft may not comply with FAA passenger regulations, and the aircraft may be operated under separate maintenance standards). The briefing must also advise that the FAA considers lights in these

aircraft to pose a greater public risk than similar activities conducted in standard category aircraft and has approved this exemption on the condition that the passengers taking this flight be apprised of the risks involved in flying in such aircraft and be properly trained in emergency exiting, including proper use of the ejection seat. Petitioners must prepare a "notice" for signature by the potential passenger. While a notice does not absolve the operator of liability in the event of an accident, the document will provide proof that the passenger has been advised of the risks inherent in the type of operation to be conducted.

14. Crew Qualification and Training.

    a. Pilots must possess a minimum of a commercial pilot certificate with instrument rating appropriate to the category and class of aircraft to be flown. They must also hold a type rating if required by the type of aircraft flown along with a current second class medical certificate.

    b. Initial and recurrent training must be performed to current airline transport pilot practical test standards for aircraft requiring a special authorization or type rating to operate.

    c. An initial ground and flight training program must be developed by the organization and completed by all pilots.

    d. Recurrent ground training must be developed and completed by all pilots on an annual cycle.

    e. An annual proficiency check must be conducted and if necessary, recurrent flight training will be required. A minimum activity level and satisfactory flight proficiency check may allow the requirement for recurrent flight training to be waived.

    f. The minimum flight experience required for each pilot position may be recommended by the petitioner but must be approved by the FAA.

    g. Pilots will maintain takeoff and landing currency in each make and model.

    h. A system for documenting and recording all crew qualifications, required training, checking, and currency must be developed and maintained.

    i. All training and checking programs must be approved by the FAA.

15. Maintenance/Inspection of Aircraft.

    a. The maintenance history of each individual aircraft must be provided.

    b. The petitioner must provide an FAA-approved maintenance/inspection program that may be a program based on military and/or original manufacturer's manuals and must be in accordance with the type certification data sheet and the aircraft's operating limitations.

    c. All maintenance and inspections will be documented and recorded.

d. Applicants may be required to submit an operational history of the make/model/type in order for the FAA to verify that the submitted maintenance/inspection program is adequate.

16. All maintenance or operational incidents will be reported to the FSDO in whose district the organization's principal base of operations is located.

17. Passenger Safety and Training.

    a. An FAA-approved passenger briefing must be conducted appropriate to the scope of operations. Passengers must be fully informed of the risks associated with the proposed rides and that occupying a seat in these aircraft may subject the rider to a high level of risk. Some operations may require passenger-briefing cards.

    b. The passenger briefing must include emergency egress procedures and passenger seating and safety restraint systems.

    c. Passenger training equivalent to that provided for Department of Defense familiarization flights must be approved by the FAA and conducted for all flights involving any of the following:

        i. Ejection seats, if the aircraft is so equipped;

        ii. High altitude operations, if flight will be conducted above 10,000 feet mean sea level (MSL); or

        iii. Oxygen system, for flights above 10,000 feet MSL or if use of the system is required by type of operation.

Petitioners who have not previously conducted operations of this type may be required to demonstrate their ability to safely perform the operations requested and to meet all operating and maintenance requirements. The extent of this demonstration will be dependent on the scope of the operation requested. Petitioners who have conducted this type of operation must provide a summary of their operating history. Additionally, all petitioners will be required to submit documentation sufficient to allow the FAA to determine the number of passenger seats to be utilized during compensated operations and the FAA approval status of those seats. Petitioners will also be required to provide the U.S. registration number and make/model/ serial number of the aircraft to be used.

CFM has included two aircraft in its request that do not meet the requirements for an exemption. The FAA policy requires that the aircraft must meet the test of being historically significant. The Christian Eagle is a kit-built aircraft that is currently available, and while it is representative of an earlier style of aircraft in that it is a biplane, it is not a historic aircraft nor is it a replica of a historic aircraft and, therefore, does not meet the policy requirement of being a historically significant aircraft. Therefore, the petitioner's request to include the Christian Eagle in this exemption is denied.

The second aircraft that will not be included in this exemption is the Grumman OV-1D. While the Grumman OV-1D may meet the historically significant test, the FAA must consider that permitting the public to experience flights in an aircraft that while in U.S. military service required the installation of an ejection seat raises a safety concern that has not been adequately addressed. Until the petitioner provides sufficient information on the means by which it ensures an equivalent level of safety, the FAA will not grant the exemption authorizing operations with the Grumman OV-1D. Therefore, the petitioner's request to include the Grumman OV-1D in this exemption is denied.

The FAA's Decision

Having reviewed your reasons for requesting an exemption, I find that:

1. They do not differ materially from those presented by the petitioner in the enclosed grant of exemption.
2. The reasons stated by the FAA for granting the enclosed exemption also apply to the situation you present; and
3. A partial grant of exemption is in the public interest.

In consideration of the foregoing, I find that a partial grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Cavanaugh Flight Museum is granted an exemption from 14 CFR §§ 91.315, 91.319(a)(2), 119.5(g), and 119.21(a) to the extent necessary to allow CFM to operate historical flight exercises in the aircraft listed in condition number 1, subject to the conditions and limitations listed below.

Conditions and Limitations

1. This exemption applies only to the airplanes listed below:

    a. Douglas B-26, N7705C
    b. Douglas EA-1E, N65164
    c. Goodyear FG1D, N451FG
    d. Grumman TBM, N86280
    e. Grumman S-2 Tracker, N37AM
    f. North American B-25, N7687C
    g. North American P-51, N51JC
    h. North American T-28, N228TS
    i. North American T-28, N828JC

2. CFM must maintain its limited category airplanes in accordance with the:

    a. Maintenance requirements as specified in the appropriate type certificate data sheet, as amended;

    b. FAA-approved maintenance inspection program that meets the requirements of § 91.409(e), (f)(4), and (g); and

    c. The appropriate military technical manuals.

3. CFM must maintain its experimental airplanes in accordance with the:

    a. Maintenance requirements as specified in their operating limitations;

    b. FAA-approved maintenance inspection program that meets the requirements of § 91.409(a) and (b); and

    c. The appropriate military technical manuals.

4. The pilot in command (PIC) for the B-25, B-26, and S-2 Tracker must:

    a. Hold at least a commercial pilot certificate with an airplane multiengine land rating, an airplane instrument rating, and the appropriate type rating;

    b. Have completed within the previous 12 calendar months, CFM's PIC qualification and recurrent flight and ground training program in each specific airplane for which PIC privileges are sought;

    c. Have completed within the previous 12 calendar months, CFM's PIC proficiency check in each specific airplane for which PIC privileges are sought;

    d. Have at least a total of 2,500 hours of aeronautical flight experience, 1,000 hours of aeronautical flight experience in multiengine land airplanes, and 25 hours in each specific airplane; or have at least a total of 1,000 hours of aeronautical flight experience, 200 hours of aeronautical flight experience in a multiengine land airplane, and 100 hours and 50 takeoffs and 50 landings in each specific airplane; and

    e. Have accomplished within the previous 90 days, three takeoffs and three landings to a full stop in each specific airplane for which PIC privileges are sought. For initial PIC qualification in each specific airplane or if the pilot has allowed his/her takeoff and landing currency to lapse in each specific airplane, the takeoff and landing currency may not be accomplished during passenger-carrying operations.

5. The PIC for the single-engine airplanes must:

    a. Hold at least a commercial pilot certificate with an airplane single-engine land rating and an airplane instrument rating;

b. Have completed within the previous 12 calendar months, CFM's PIC qualification and recurrent flight and ground training program for each specific airplane;

c. Have completed within the previous 12 calendar months, CFM's PIC proficiency check for each specific airplane;

d. Have at least a total of:

i. 2,500 hours of aeronautical flight experience, 1,000 hours of aeronautical flight experience in single-engine land airplanes, and 25 hours in each specific airplane; and

ii. 1,000 hours of aeronautical flight experience, 200 hours of aeronautical flight experience in a single-engine land airplane, and 100 hours and 50 takeoffs and 50 landings in each specific airplane.

e. Have accomplished within the previous 90 days, three takeoffs and three landings to a full stop in each specific airplane. For initial PIC qualification in each specific airplane or if the pilot has allowed his/her takeoff and landing currency to lapse in any specific airplane, the takeoff and landing currency may not be accomplished during passenger-carrying operations.

6. The second in command (SIC) for the B-25, B-26, and S-2 Tracker must:

a. Hold at least a commercial pilot certificate with an airplane multiengine land rating and an airplane instrument rating;

b. Have completed within the previous 12 calendar months, CFM's SIC qualification and recurrent flight and ground training program in each specific airplane for which SIC privileges are sought;

c. Have completed within the previous 12 calendar months, CFM's SIC proficiency check in each specific airplane for which SIC privileges are sought;

d. Have at least a total of 1,500 hours of aeronautical flight experience, 250 hours of aeronautical flight experience in a multiengine land airplane; or have at least a total of 500 hours of aeronautical flight experience, 100 hours of aeronautical flight experience in a multiengine land airplane, and 25 hours and 10 takeoffs and 10 landings in each specific airplane for which SIC privileges are sought; and

e. Have accomplished within the previous 90 days, three takeoffs and three landings to a full stop in the airplane for which SIC privileges are sought. For initial SIC qualification in each specific airplane or if the pilot has allowed his/her takeoff and landing currency to lapse in the specific airplane, the takeoff and landing currency may not be accomplished during passenger-carrying operations.

7. CFM must develop and maintain written B-25, B-26, and S-2 Tracker qualification and recurrent ground training programs for its PICs and SICs in the B-25, B-26, and S-2 Tracker that cover the training subjects listed below. Each PIC and SIC in the B-25, B-26, and S-2 Tracker must receive the following training within the previous 12 calendar months and be found to be competent and proficient in these areas prior to serving in an PIC or SIC position in the B-25, B-26, and S-2 Tracker:

REQUIRED TRAINING TASKS
a. General information and description of the airplane;
b. Airplane limitations;
c. Airplane servicing;
d. Airspeeds;
e. Fuel system;
f. Electrical system;
g. Hydraulic system;
h. Engines;
i. Instruments and avionics;
j. Landing gear, brakes, controls, and flaps systems;
k. Propeller;
l. Emergency procedures, including—
(i) Instruction in emergency assignments and procedures, including coordination among crewmembers;
(ii) Individual instruction in the location, function, and operation of emergency equipment, including—
A. First aid equipment and its proper use; and B. Portable fire extinguishers, with emphasis on the type of extinguisher to be used on different classes of fires;
(iii) Instruction in the handling of emergency situations, including—
A. Fire in flight or on the surface and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas; and B. Illness, injury, or other abnormal situations involving passengers or crewmembers;
m. Weight and balance;
n. Performance planning;
o. Airplane's checklist; and
p. Differences in type.

8. CFM must develop and maintain a written qualification and recurrent ground training program for its PIC in each specific airplane that covers the training subjects listed below. Each PIC must receive the following training within the previous 12 calendar months and be found to be competent and proficient in these areas prior to serving in a PIC position in each specific airplane:

REQUIRED TRAINING TASKS
a. General information and description of the airplane;
b. Airplane limitations;
c. Airplane servicing;
d. Airspeeds;
e. Fuel system;
f. Electrical system;
g. Hydraulic system;
h. Engines;
i. Instruments and avionics;
j. Landing gear, brakes, controls, and flaps systems;
k. Propeller;
l. Emergency procedures, including—
(i) Instruction in emergency assignments and procedures, including coordination among crewmembers; (ii) Individual instruction in the location, function, and operation of emergency equipment, including— A. First aid equipment and its proper use; and B. Portable fire extinguishers, with emphasis on the type of extinguisher to be used on different classes of fires; (iii) Instruction in the handling of emergency situations, including— A. Fire in flight or on the surface and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas; and B. Illness, injury, or other abnormal situations involving passengers or crewmembers;
m. Weight and balance;
n. Performance planning; and
o. Airplane's checklist.

9. CFM must develop and maintain a written B-25, B-26, and S-2 Tracker qualification and recurrent flight training program for its PIC in the B-25, B-26, and S-2 Tracker that covers the areas of operations and tasks, as listed in the following table of training tasks. Each PIC in the B-25, B-26, and S-2 Tracker must successfully accomplish this training before being assigned PIC responsibilities and duties. Each PIC in the B-25, B-26, and S-2 Tracker must receive and successfully accomplish the following training within the previous 12 calendar months and be found to be competent and proficient in these areas prior to serving in a PIC position in the B-25, B-26, and S-2 Tracker for CFM:

REQUIRED TRAINING TASKS
a. Preflight Preparation, including— (i) Airplane exam (oral or written); and (ii) Airplane performance & limitations (oral or written);
b. Ground Operations, including— (i) Preflight inspection; (ii) Cockpit resource management; (iii) Powerplant start procedures; (iv) Taxiing; and (v) Pre-takeoff checks;
c. Takeoffs & Departures, including— (i) Normal & crosswind takeoffs; (ii) Powerplant failure; and (iii) Rejected takeoffs;
d. In-flight Maneuvers, including— (i) Steep turns; (ii) Approach to stalls; (iii) Powerplant failure; and (iv) Specific flight characteristics;
e. Landings & Approaches to Landing, including— (i) Normal & crosswind approaches & landing; (ii) Maneuvering to a landing with a simulated powerplant failure; (iii) Rejected landing; and (iv) Landing from a no flap or a nonstandard flap approach;
f. Normal & Abnormal Procedures, including— (i) Powerplant; (ii) Fuel system;

(iii) Electrical system; (iv) Hydraulic system; (v) Environmental & pressurization system (as appropriate and if equipped); (vi) Fire detection & extinguishing system; (vii) Navigation & avionics system; (viii) Automatic flight control system, electronic flight instrument system, & related systems (as appropriate and if equipped); (ix) Flight control system; (x) Anti-ice & de-ice system; and (xi) Airplane & personal emergency equipment;
g. Emergency Procedures, including— (i) In-flight fire & smoke removal; (ii) Rapid decompression (as appropriate and if equipped with a pressurization system); (iii) Emergency descent; (iv) Ditching; and (v) Emergency evacuation;
h. Postflight Procedures, including— (i) After landing procedures; and (ii) Parking and securing airplane.

10. CFM must develop and maintain a written qualification and recurrent flight training program for its PICs in each specific single-engine airplane that covers the areas of operations and tasks, as listed in the following table of training tasks. Each PIC must successfully accomplish this airplane specific training before being assigned PIC responsibilities and duties. Each PIC must receive and successfully accomplish the following training within the previous 12 calendar months and be found to be competent and proficient in these areas prior to serving in a PIC position in each specific single engine airplane:

REQUIRED TRAINING TASKS
a. Preflight Preparation, including— (i) Airplane exam (oral or written); and (ii) Airplane performance & limitations (oral or written);
b. Ground Operations, including— (i) Preflight inspection; (ii) Cockpit resource management; (iii) Powerplant start procedures; (iv) Taxiing; and (v) Pre-takeoff checks;
c. Takeoffs & Departures, including— (i) Normal & crosswind takeoffs; (ii) Powerplant failure; and (iii) Rejected takeoffs;
d. In-flight Maneuvers, including— (i) Steep turns; (ii) Approach to stalls; (iii) Powerplant failure; and (iv) Specific flight characteristics;
e. Landings & Approaches to Landing, including— (i) Normal & crosswind approaches & landing; (ii) Maneuvering to a landing with a simulated powerplant failure; (iii) Rejected landing; and (iv) Landing from a no flap or a nonstandard flap approach;
f. Normal & Abnormal Procedures, including— (i) Powerplant; (ii) Fuel system; (iii) Electrical system; (iv) Hydraulic system; (v) Environmental system (as appropriate and if equipped); (vi) Fire detection & extinguishing system; (vii) Navigation & avionics system; (viii) Automatic flight control system, electronic flight instrument system, & related systems (as appropriate and if equipped);

(ix) Flight control system; (x) Anti-ice & de-ice system; and (xi) Airplane & personal emergency equipment;
g. Emergency Procedures, including— (i) In-flight fire & smoke removal; (ii) Emergency descent; (iii) Ditching; and (iv) Emergency evacuation;
h. Postflight Procedures , including— (i) After landing procedures; and (ii) Parking and securing airplane.

11. CFM must develop and maintain a written B-25, B-26, and S-2 Tracker qualification and recurrent flight training programs for its SIC in the B-25, B-26, and S-2 Tracker that cover the areas of operations and tasks, as listed in the following table of training tasks. Each SIC in the B-25, B-26, and S-2 Tracker must successfully accomplish this training before being assigned SIC responsibilities and duties. Each SIC in the B-25, B-26, and S-2 Tracker must receive and successfully accomplish the following training within the previous 12 calendar months and be found to be competent and proficient in these areas prior to serving in an SIC position in the B-25, B-26, and S-2 Tracker for CFM:

REQUIRED TRAINING TASKS:
a. Operational procedures applicable to the powerplant, equipment, and systems;
b. Performance specifications and limitations;
c. Normal, abnormal, and emergency operating procedures;
d. Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls;
e. Engine-out procedures and maneuvering with an engine out while executing the duties of PIC;
f. Crew resource management training; and
g. Familiarization with the airplane flight manual, placards, and markings.

12. CFM may not use a pilot nor may any pilot serve as a pilot in any airplane unless, since the beginning of the 12th calendar month before that service, that pilot has passed a competency check given by the FAA or an authorized check pilot in that airplane to determine the pilot's competence in practical skills and techniques in the appropriate airplane. The competency check will consist of the appropriate maneuvers and procedures currently required for the original issuance of the commercial pilot certificate.

The FAA's Dallas Flight Standards District Office (FSDO) will determine what maneuvers and procedures are critical, such as preflight preparation, ground operations, takeoffs and departures, and normal procedures, etc., and maneuvers and procedures that may be unsafe for a particular airplane.

13. Recurrent flight training for pilots must include, at least, flight training in the maneuvers and procedures in this exemption. However, satisfactory completion of the check required by this exemption within the preceding 12 calendar months may be substituted for recurrent flight training.

14. CFM must document and record all ground and flight training and/or testing required by this grant of exemption in a manner acceptable to the FAA's Dallas FSDO. That documentation and records must contain the following information:

    a. Date of each training session.

    b. Date of each testing session.

    c. The amount of time of each session of ground and flight training given.

    d. The amount of time of each session of ground and flight testing given.

    e. Location where each session of ground and flight training was given.

    f. Location where each session of ground and flight testing was given.

    g. The airplane identification number in which each flight training session was received.

    h. The airplane identification number in which each flight testing session was received.

    i. The name and certificate number of the pilot who provided each session of training.

    j. The name and certificate number of the pilot who provided each session of testing.

    k. The signature and printed name of the pilot who received the training. That pilot's signature will serve as a verification of having received each session of training.

    l. The signature and printed name of the pilot who received the testing. That pilot's signature will serve as a verification of having received each session of testing.

15. When requested, the CFM's pilot qualification and recurrent ground- and flight-training programs and/or records listed in conditions above must be made available to the Dallas FSDO, 1431 Greenway, Irving, Texas 75063, (972) 582-1800.

16. CFM must have the services of an FAA-certificated airframe and powerplant mechanic or an appropriately rated repair station available at all stopovers to perform all required maintenance inspections and repairs.

17. CFM will maintain the following information and records and will make those records available for review to the FAA when requested:

    a. The name of each pilot crewmember CFM authorizes to conduct flight operations in its airplanes under the terms of this exemption;

    b. Copies of each PIC's and SIC's pilot certificate, medical certificate, qualifications, and initial and recurrent training and testing documentation to comply with the conditions listed above; and

    c. Records of maintenance performed and maintenance inspection records to comply with the conditions above, as appropriate. Maintenance and inspection records must meet the requirements of §§ 91.405, 43.9, and 43.11.

18. Before permitting a person to be carried on board its airplane for the purposes authorized under this exemption, CFM will inform that person that its airplanes hold only a limited airworthiness certificate; the significance of the airworthiness certificate as compared to a standard airworthiness certificate; and that the FAA has authorized this flight under a grant of exemption from the requirements of §§ 91.315, 91.319, 119.5(g), and 119.21(a). The explanation of the significance of a limited airworthiness certificate, experimental airworthiness certificate compared to a standard airworthiness certificate must include at least the following information:

    a. The FAA has not established nor has it approved limited category airworthiness certificated airplane manufacturing standards. The FAA has not established nor has it approved experimental category airworthiness certificated airplane manufacturing standards. In contrast, standard category airworthiness certificated airplanes are manufactured to FAA-approved standards, including standards addressing the design of the airplane and life-limited parts.

    b. Limited category airworthiness certificated airplanes are issued when the FAA finds the airplane—

        i. Has been previously issued a limited category type certificate and the airplane conforms to that type certificate; and

        ii. To be in a good state of preservation and repair and is in a safe operating condition.

    c. An airplane may be issued an experimental airworthiness certificate for the purpose of exhibition when the airplane is intended only for exhibition of the airplane's flight capabilities, performance, or unusual characteristics at airshows, motion picture, television, and similar productions and the maintenance of exhibition flight proficiency, including (for persons exhibiting the airplane) flying to and from such airshows and productions.

d. Standard category airworthiness certificates are issued for an airplane when the FAA finds the—

i. Airplane has been built and maintained in accordance with that airplane's type certification standards as established by the FAA; and

ii. Airplane's inspection and maintenance requirements are in compliance with the applicable Federal Aviation Regulations.

19. CFM must notify the Dallas FSDO within 24 hours of any of the following occurrences by written report, by electronic mail, or by facsimile:

a. Each in-flight fire in any system or area that requires activation of any fire suppression system or discharge of a portable fire extinguisher.

b. Each exhaust system component failure, including the turbocharger components, that causes damage to any engine, structure, cowling, or components.

c. Each airplane component or system that causes, during flight, accumulation or circulation of noxious fumes, smoke, or vapor in any portion of the cabin or crew area.

d. Except for training, each occurrence of engine shutdown or propeller feathering, and the reason for such shutdown or feathering.

e. Each failure of the propeller governing systems or feathering systems.

f. Any landing gear system or component failures or malfunctions, which require use of emergency or standby extension systems.

g. Each failure or malfunction of the wheel brake systems that causes loss of brake control on the ground.

h. Each airplane structure that requires major repair due to damage, deformation, or corrosion, and the method of repair.

i. Each failure or malfunction of the fuel system, tanks, pumps, or valves.

j. Each malfunction, failure, or defect in any system or component that requires taking emergency action of any type during the course of any flight.

k. For the purpose of this section, “during flight” means the period from the moment the airplane leaves the surface of the earth on takeoff until it touches down on landing.

20. All flight operations must be conducted:

a. At a minimum operating altitude of not less than 1,000 feet above ground level (AGL);

b. Between the hours of official sunrise and sunset, as established in the American Air Almanac, as converted to local time;

c. Within a 25-statute-mile radius of the departure airport with landings only permitted at the departure airport;

d. With a minimum flight visibility of not less than 3 statute miles and a minimum ceiling of not less than 1,500 feet AGL;

e. Passenger-carrying operations for compensation may be conducted at distances greater than 25 statute miles of the departure airport up to 50 statute miles with concurrence of the FAA FSDO having geographic responsibility for the aviation event. For such flights, landings are only permitted at the departure airport. The operator must provide information pertaining to the proposed route of flight, which will avoid densely populated areas or congested airways in accordance with 14 CFR § 91.319(c) for airplanes certificated in the experimental category. Those operators utilizing airplanes certificated in the limited category are not bound by the restriction regarding the avoidance of densely populated areas or congested airways;

f. For passenger-carrying flights greater than 25 statute miles from the departure airport and up to 50 statute miles, the PIC must obtain weather reports and forecasts prior to flight and valid for the duration of the proposed operation that indicate that the weather would be no less than 5 statute miles visibility and cloud ceilings no less than 2,000 feet AGL. Passenger-carrying operations shall be terminated if ceiling and visibility become less than the minimum required by these conditions and limitations. Weather forecasts listing discriminators such as probability (PROB), becoming (BECOMG), or temporarily (TEMPO) shall be limiting; and

g. The airplane may only be operated from an airport that has a fire station or fire-fighting services available or within close proximity of the airport.

21. No persons other than the assigned flight crewmembers may be permitted on the pilot station of the airplane during flight operations.

22. Except for essential crewmembers, all flight operations must carry no more than the maximum number of passengers permitted by the airplane's weight and balance limitations and number of approved seats in the airplane.

23. All airplanes must have the equipment listed in §§ 91.205(b) and 91.207 and that equipment must be in an operable condition during the flight.

24. CFM must hold and continue to hold a determination from the U.S. Internal Revenue Service that it is a § 501(c)(3) non-profit, tax-exempt, charitable organization under §§ 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

25. CFM must notify the Dallas FSDO at least 5 working days (Mondays through Fridays) before conducting any PIC or SIC initial or recurrent qualification training and any PIC or SIC initial or recurrent proficiency checks required to be conducted under the terms of this grant of exemption.

26. No later than 72 hours prior to commencing flight operations under the terms of this grant of exemption, CFM must notify the jurisdictional FAA FSDO where it intends to conduct the flight operations and shall provide a copy of this exemption to that jurisdictional FAA FSDO.

27. Failure to comply with any of the conditions and limitations of this grant of exemption will be grounds for the immediate suspension or revocation of the exemption.

This exemption terminates on July 31, 2011, unless sooner superseded or rescinded.

Issued in Washington, D.C., on July 20, 2009

/s/
John W. McGraw
Acting Director, Flight Standards
Service